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October 16, 2008

The Hon. George Malina,  
The Hon. Chuck Parrish  
The Hon. Bill Arthur,  
The Hon. Lynn Peterson  
The Hon. Margaret Bratcher,  
The Hon. Allan Ekberg  
The Tukwila Planning Commission  
6300 Southcenter Blvd., #100  
Tukwila, WA 98188

**Re: Comment to Draft Tukwila Shoreline Master Program, dated July 24, 2008**

Dear Commissioners:

This firm represents Harnish Group Inc., and its subsidiaries, N C Machinery Co. and N C Power Systems Co. (collectively, "HGI") with respect to the City of Tukwila's ("City") proposed amendment of its Shoreline Master Program in 2008 ("SMP Amendment"). As you know from HGI's comments to date, one of the problems with the SMP Amendment (if passed in its current form) is its transformation of a wide range of existing riverfront structures and uses into nonconforming ones. As a supplement to our October 9, 2008 comments, this letter provides an example of how the City might implement its Shoreline Management Program without rendering tens of millions of dollars worth of property nonconforming.

As you may know, the City of Bellevue is working on its Bel-Red Subarea Plan ("Bel-Red Plan"), which is intended to "result in a transformation of the Bel-Red area over time from the current light industrial and commercial uses to new vibrant neighborhoods and thriving businesses served by an integrated system of multi-modal transportation choices, parks and open space, and restored stream corridors that connect to the greater city and the region."<sup>1</sup> In other words, the Bel-Red Plan, like the draft Staff/Ecology draft SMP

<sup>1</sup> See Planning Commission Transmittal, dated July 23, 2008, *available at*:  
[http://www.bellevuewa.gov/pdf/PCD/PC\\_Transmittal\\_Bel-Red\\_Recdtn\\_final.pdf](http://www.bellevuewa.gov/pdf/PCD/PC_Transmittal_Bel-Red_Recdtn_final.pdf).

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Perkins Coie LLP and Affiliates

EXHIBIT 52 DATE 10/16/08  
PROJECT NAME SMP Update  
LO6-088

Amendment, envisions bold transformation and restoration of large areas of property over time.

The City of Bellevue, in implementing its vision of transformation and restoration, treats existing uses as allowed uses under the changed standards. That approach, if used in the Tukwila SMP Amendment, would avoid many of the problems associated with the Staff/Ecology proposal for existing structures and uses that would otherwise be rendered nonconforming - diminishing property values and encouraging blight. The following are excerpts from the City of Bellevue Planning Commission's recommended Bel-Red Subarea Land Use Code Amendments,<sup>2</sup> Section 20.25D.060, modified to delete Bellevue's code sections and specific Bellevue Code references and replace them with blanks or references to the City's SMP Amendment. We recommend you consider these provisions as models for language of the City's draft SMP Amendment, and we would be pleased to help prepare specific language to amend the City's draft at your request:

#### **Existing Conditions.**

**A. Purpose.** Many existing uses and developments would not be permitted to establish pursuant to the [insert references to new SMP Amendments]. The purpose of this section is to allow the continued operation of existing light industrial and service uses and development that were legally established when the SMP Amendment was adopted on [insert SMP Amendment adoption date]. An additional purpose of this section is to allow limited expansion of existing uses and structures that is compatible with residential and higher intensity mixed use development that was introduced with the adoption of the Plan.

#### **B. Types of Existing Conditions – Definitions**

A site may be considered an existing condition because it contains either an existing use or existing development as defined in this paragraph \_\_\_\_.

1. Existing Use. The use of a structure or land which was permitted when established, in existence on [insert SMP Amendment adoption date] and not discontinued or destroyed.
2. Existing Development. A structure or site development which was permitted when established, in existence on [insert SMP Amendment adoption

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date] and not discontinued or destroyed, but does not otherwise comply with  
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3. Accidental Destruction. When a structure continuing an existing use is damaged by fire or other causes beyond the control of the owner, the use may be re-established. The structure may be repaired and/or reconstructed in its original configuration. Changes to the footprint and exterior proposed as part of the repair and/or reconstruction shall conform to this code.

Additionally, we would like to note for the City some of the creative tools the City of Bellevue has come up with to encourage landowners to develop property consistent with the Bel-Red Plan's vision. Such tools include floor area ratio and building height bonuses, tax exemptions, and transfer of development rights. They allow the City to obtain public benefits through a trade off that allows property owners more flexibility and higher value development potential. And, importantly, the property owner determines the value and feasibility of the trade off. The City of Bellevue, in consultation with the Urban Land Institute, has worked hard to develop a plan that is economically workable. We continue to recommend that the City convene a stakeholder group to allow further community input and involvement in the development of the SMP Amendment, and we look forward to the opportunity to work with the City to find ways to create incentives for landowners that will promote the restoration and enhancement of the ecosystem function and values of the City's shorelines over time.

We remain hopeful that the City will offer residents a more open process through which to provide input to the SMP Amendment. If you have questions, please contact John Storm at (425) 251-9806 or at [jstorm@harnishgrp.com](mailto:jstorm@harnishgrp.com), or me at (425) 635-1403 or [jlutz@perkinscoie.com](mailto:jlutz@perkinscoie.com).

Very truly yours,

  
R. Gerard Lutz

cc: John Harnish  
Rick Bellin  
John Storm



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